

### **REMARKS**

Prior to entry of this amendment, claims 1-17 are currently pending in the subject application. The specification has been amended to correct minor informalities. Claims 1-3 and 17 have been cancelled, claims 12-16 have been amended, and claims 18-21 have been added. Claims 4, 6, 7, 9, and 15 are independent. No new matter has been added

Applicants note with appreciation the Examiner's acknowledgement of applicants' claim for foreign priority and receipt of a certified copy of the priority document.

Applicants note with appreciation the Examiner's acceptance of the drawings filed on July 10, 2003.

Applicants note with appreciation the Examiner's consideration of applicants' Information Disclosure Statements filed January 6, 2004, April 30, 2004 and July 13, 2005.

#### **A. Introduction**

In the outstanding Office action, the Examiner rejected claim 14 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter; rejected claim 15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,732,313 to Fukushima et al. ("the Fukushima et al. reference"); rejected claims 1, 2 and 14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,967,924 to Aimoto ("the Aimoto reference") in view of U.S. Patent Publication No. 2004/0203815 to Shoemake et al. ("the Shoemake et al. reference"); rejected claim 3 under 35 U.S.C. § 103(a) as being unpatentable over the Aimoto reference in view of the Shoemake et al. reference and further in view of U.S. Patent Publication No. 2003/0093485 to Dougall et al. ("the Dougall et al. reference") and further in view of the Fukushima et al. reference; rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over "A Novel Scheme for Streaming Multimedia to Personal Wireless Handheld Devices" to Zheng et al. ("the Zheng et al. reference") in view of the Fukushima et al. reference; rejected claim 5 under 35 U.S.C. § 103(a) as being

unpatentable over the Zheng et al. reference in view of the Fukushima et al. reference and further in view of U.S. Patent No. 6,658,019 to Chen et al. ("the Chen et al. reference"); rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over the Chen et al. reference in view of U.S. Patent Publication No. 2006/0130104 to Budagavi ("the Budagavi reference") and further in view of the Fukushima et al. reference and further in view of WO 00/33503 to Johansson et al. ("the Johansson et al. reference"); rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over the Chen et al. reference in view of the Budagavi reference and further in view of the Fukushima et al. reference and further in view of the Johansson et al. reference and further in view of U.S. Patent No. 6,144,653 to Persson et al. ("the Persson et al. reference"); rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable the Fukushima et al. reference in view of U.S. Patent No. 5,708,473 to Mead ("the Mead reference"); rejected claim 17 under 35 U.S.C. § 103(a) as being unpatentable the Fukushima et al. reference; and allowed claims 6-11.

B. Rejection of Claim 14 as Being Directed to Non-Statutory Subject Matter

In the outstanding Office action, the Examiner rejected claim 14 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In particular, the Examiner asserted that the "computer readable medium" recited claim 14, defined in the specification to include an electromagnetic signal, does not qualify as statutory subject matter. However, it is respectfully submitted that a computer program, regardless of how it is transmitted for use, does qualify as statutory subject matter. See also, *Memorandum "Clarification of Interim Guidelines for Examination of Patent Applications for Subject Matter Eligibility," dated April 12, 2007*. Therefore, applicants respectfully request that this rejection be reconsidered and withdrawn.

C. Asserted Anticipation Rejection of Claim 15

In the outstanding Office action, the Examiner rejected claim 15 under 35 U.S.C.

§ 102(b) as being anticipated by the Fukushima et al. reference. Claim 15 has been amended to more clearly recite the features of the claimed embodiment. It is respectfully submitted that the Fukushima et al. reference does not anticipate claim 15 for at least the reasons set forth below.

Claim 15 now recites, in part,

a retransmission function unit adapted to output to the transmitting side MAC layer a retransmission message and sequence number information of the non-received I-frame packets if any transmission error exists, and to receive the non-received I-frame packets without a corresponding number of packets of other frame types for a subsequent I-frame through retransmission by the transmitting side MAC layer.

In contrast, while the Fukushima et al. reference may disclose retransmitting only packets having a certain priority level, the Fukushima et al. reference does not disclose or suggest retransmitting at the expense of lower priority frame to be transmitted, as now recited in claim 15. Therefore, it is respectfully submitted the Fukushima et al. reference fails to disclose or suggest claim 15, and it is respectfully requested that this rejection be withdrawn.

D. Asserted Obviousness Rejection of Claims 1, 2 and 14

In the outstanding Office action, the Examiner rejected claims 1, 2 and 14 under 35 U.S.C. § 103(a) as being unpatentable over the Aimoto reference in view of the Shoemake et al. reference. Claims 1 and 2 have been cancelled, and claim 14 has been amended to reference claim 4, thereby obviating this rejection.

E. Asserted Obviousness Rejection of Claim 3

In the outstanding Office action, the Examiner rejected claim 3 under 35 U.S.C. § 103(a) as being unpatentable over the Aimoto reference in view of the Shoemake et al. reference and further in view of the Dougall et al. reference and further in view of the Fukushima et al. reference. Claim 3 has been cancelled, thereby obviating this rejection.

F. Asserted Obviousness Rejection of Claim 4

In the outstanding Office action, the Examiner rejected claim 4 under 35 U.S.C.

§ 103(a) as being unpatentable over the Zheng et al. reference in view of the Fukushima et al. reference. Claim 4 has been amended to more clearly recite features of the claimed embodiment. It is respectfully submitted that applied reference do not render claim 4 obvious for at least the reasons set forth below.

Claim 4 now recites, in part, “retransmitting only non-received packets of the I-frame, without a corresponding number of non I-frame packets for a subsequent I-frame.”

In contrast, while the Fukushima et al. reference may disclose retransmitting only packets having a certain priority level, the Fukushima et al. reference does not disclose or suggest retransmitting at the expense of lower priority frame packets to be transmitted, as now recited in claim 4. Therefore, it is respectfully submitted neither the Zheng et al. reference nor the Fukushima et al. reference, either alone or in combination, suggest, much less disclose, claim 4, and it is respectfully requested that this rejection be withdrawn.

G. Asserted Obviousness Rejection of Claim 5

In the outstanding Office action, the Examiner rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Zheng et al. reference in view of the Fukushima et al. reference in view of the Chen et al. reference. Claim 5 depends from claim 4, and is believed to be allowable for at least the reasons claim 4 is believed to be allowable. It is respectfully submitted that the Chen et al. reference at least fails to provide the teachings noted above as missing from the Fukushima et al. reference. Therefore, it is respectfully requested that this rejection be withdrawn.

H. Asserted Obviousness Rejection of Claim 12

In the outstanding Office action, the Examiner rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over the Chen et al. reference in view of the Budagavi reference in view of the Fukushima et al. reference and further in view of the Johansson et al. reference. Claim 12 has been amended to depend from allowed claim 6, and is believed to be

allowable for at least the reasons claim 6 is believed to be allowable. Therefore, it is respectfully requested that this rejection be withdrawn.

I. Asserted Obviousness Rejection of Claim 13

In the outstanding Office action, the Examiner rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over the Chen et al. reference in view of the Budagavi reference and further in view of the Fukushima et al. reference and further in view of the Johansson et al. reference and further in view of the Persson et al. reference. Claim 13 depends from claim 12, and is believed to be allowable for at least the reasons claim 12 is believed to be allowable. Therefore, it is respectfully requested that this rejection be withdrawn.

J. Asserted Obviousness Rejection of Claim 16

In the outstanding Office action, the Examiner rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over the Fukushima et al. reference in view of the Mead reference. Claim 16 depends from claim 15, and is believed to be allowable for at least the reasons claim 15 is believed to be allowable. It is respectfully submitted that the Mead reference at least fails to provide the teachings noted above as missing from the Fukushima et al. reference. Therefore, it is respectfully requested that this rejection be withdrawn.

K. Asserted Obviousness Rejection of Claim 17

In the outstanding Office action, the Examiner rejected claim 17 under 35 U.S.C. § 103(a) as being unpatentable over the Fukushima et al. reference. Claim 17 has been cancelled, obviating this rejection.

L. New Claims

Claims 18 and 19 depend from claim 9, and claims 20 and 21 depend from claim 15, and are believed to be allowable for at least the reasons their respective base claims are considered allowable.

M. Allowable Subject Matter

Applicants note with appreciation the Examiner's allowance of claims 6-11.

However, it is respectfully submitted that all of the pending claims are in condition for allowance.

N. Conclusion

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

In view of the foregoing amendments and remarks, reconsideration of this application is earnestly solicited, and an early and favorable further action upon all the claims is hereby requested.

Respectfully submitted,

LEE & MORSE, P.C.

Date: May 22, 2007

  
Eugene M. Lee, Reg. No. 32,039

LEE & MORSE, P.C.  
3141 FAIRVIEW PARK DRIVE, SUITE 500  
FALLS CHURCH, VA 22042  
703.207.0008 TEL  
703.207.0003 FAX

PETITION and  
DEPOSIT ACCOUNT CHARGE AUTHORIZATION

This document and any concurrently filed papers are believed to be timely. Should any extension of the term be required, applicant hereby petitions the Director for such extension and requests that any applicable petition fee be charged to Deposit Account No. 50-1645.

If fee payment is enclosed, this amount is believed to be correct. However, the Director is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-1645.

Any additional fee(s) necessary to effect the proper and timely filing of the accompanying-papers may also be charged to Deposit Account No. 50-1645.